

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SCOTT M. THORNTON,

Plaintiff,

v.

Cause No. 1:14-cv-00893

GEO GROUP, INC., ET AL.

Defendants.

**CERTAIN DEFENDANTS' ANSWER TO
PLAINTIFF'S SUPPLEMENTAL COMPLAINT**

COME NOW Defendants GEO Group, Inc., Walter Cooper, Dwayne Burris, L. Elizondo, Sgt. Felts, Warden Janecka, Deputy Warden Beaird, Captain Condarco, Sgt. Gomez, I. Maldonado, Officer Gonzales and Recreation Director Felts by their counsel, Yenson, Allen & Wosick, P.C. (April D. White), and for their Answer to Plaintiff's Supplemental Complaint state as follows:

1. These Defendants deny the allegations contained in paragraph 1 of the Supplemental Complaint including subparagraphs a, b, c, d, e, and f.
2. These Defendants deny the allegations contained in paragraph 2 of the Supplemental Complaint including subparagraphs a, b, c, d, e, f, g and h.
3. These Defendants are without knowledge or information regarding the allegations contained in paragraph 3 of the Supplemental Complaint including subparagraphs a, b, c, d, and e and therefore those allegations are denied.
4. These Defendants admit they have agreed to waive service for Defendants Warden Janecka, Deputy Warden Beaird, Captain Condarco, Sgt. Gomez, I. Maldonado, Recreation Director Felts and Officer Gonzales.
5. These Defendants are without knowledge or information regarding the allegations

contained in paragraph 5 of the Supplemental Complaint and therefore those allegations are denied.

6. These Defendants deny the allegations contained in paragraph 6 of the Supplemental Complaint.

7. Paragraph 7 of the Supplemental Complaint states a legal conclusion and requires no response. To the extent paragraph 7 purports to allege facts, these Defendants deny those allegations.

8. Paragraph 8 of the Supplemental Complaint states a legal conclusion and requires no response. To the extent paragraph 8 purports to allege facts, these Defendants deny those allegations.

9. These Defendants deny the allegations contained in paragraph 9 of the Supplemental Complaint including subparagraphs a, b, c, d, e, and f.

10. These Defendants deny the allegations contained in paragraph 10 of the Supplemental Complaint including subparagraphs a, b, c, d, e, f, and g.

11. These Defendants deny each and every allegation not specifically admitted herein.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.

2. Plaintiff's federal claims are barred by the Prison Litigation Reform Act because Plaintiff has failed to exhaust his administrative remedies.

3. Plaintiff's claims are subject to all other applicable portions of the Prison Litigation Reform Act.

4. To the extent Plaintiff seeks punitive damages against these Defendants in their official capacities, such damages are barred by applicable federal law.

5. These Defendants had insufficient personal involvement to be held liable to Plaintiff under state or federal law.

6. Plaintiff's state law claims, if any, are barred by NMSA 1978, Section 33-2-11 because Plaintiff has failed to exhaust his administrative remedies.

7. Plaintiff's state law claims against these Defendants, if any, are barred in whole or in part by Plaintiff's own comparative fault.

8. Plaintiff's state law claims against these Defendants, if any, are barred in whole or in part by the comparative fault of other persons who are not parties to this litigation.

9. Plaintiff has failed to mitigate his alleged damages.

WHEREFORE Defendants GEO Group, Inc., Walter Cooper, Dwayne Burris, L. Elizondo, Sgt. Felts, Warden Janecka, Deputy Warden Beaird, Captain Condarco, Sgt. Gomez, I. Maldonado, Officer Gonzales and Recreation Director Felts respectfully request that Plaintiff's Complaint be dismissed in its entirety with prejudice, and for any such other and further relief as this Court deems just and proper.

Respectfully submitted,

YENSON, ALLEN & WOSICK, P.C.

s/ April D. White

April D. White

*Attorneys for Defendants GEO, Cooper,
Burris, Elizondo, Sgt. Felts, Janecka, Beaird,
Condarco, Gomez, Maldonado, Gonzales
and Recreation Director Felts*

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I hereby certify that a true copy of the foregoing pleading was mailed to:

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Plaintiff pro se

and electronically served upon:

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Attorney for NMCD

on this 3rd day of October, 2014

/s/ April D. White

April D. White